UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,516	05/10/2001	Brian Byrnes	51140-00001USPT	6340

7590   12/11/2003

PATENT DEPARTMENT
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EXAMINER
COURTENAY III, ST JOHN

ART UNIT	PAPER NUMBER
2126	

DATE MAILED: 12/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No. 09/852,516	Applicant(s) BYRNES, BRIAN	
	Examiner St. John Courtenay III	Art Unit 2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 May 2001_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-32_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _1-13_ is/are allowed.

6)☒ Claim(s) _14-32_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a)☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other:

Detailed Action

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14- 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by **McNamara et al.** (U.S. Patent 6,262,976).

As per independent claim 14:
McNamara teaches a method for managing the cost of utilization of computer resources, the method comprising the steps of:

- defining classes of computer resources based on quality of service attributes [e.g., see the four classes shown in fig. 4, and discussed beginning col. 11, line 30; see column 22 discussion of classes, beginning line 41, cont'd col. 23 and particularly col. 24, lines 58-61:"If there were multiple paths through different edge routers to the remote domain, selection of paths could be based on Quality of Service, QOS, criteria or available bandwidth." also see: col. 19, lines 64-66: "Alternatively, the path switch matrix could be loaded with optional paths in addition to the base class paths. The optional paths would allow selection based on different quality of service (QOS) types."];

- defining computer resource usage polices based on the class definitions [e.g., see the four classes shown in fig. 4, and discussed beginning col. 11, line 30; see column 22 discussion of classes, beginning line 41],

- whereby the cost utilization of the computer resources is managed by using the computer resource according to the usage policies [e.g., see col. 24, line 57: "Each path that detects a unique connection to the destination domain could be used for data traffic as well. If there were multiple paths through different edge routers to the remote domain, selection of paths could be based on Quality of Service, QOS, criteria or available bandwidth." and associated discussion col. 24].

As per dependent claim 15:

McNamara teaches the quality of service attributes are selected from a group including resource performance, resource reliability, resource availability, resource latency, and resource bandwidth [e.g., see col. 19, lines 64-66: "Alternatively, the path switch matrix could be loaded with optional paths in addition to the base class paths. The optional paths would allow selection based on different quality of service (QOS) types."].

As per dependent claim 16:

McNamara teaches assigning each class an identification designator [e.g., see the four named classes shown in fig. 4, and discussed beginning col. 11, line 30; see column 22 discussion of classes, beginning line 41].

As per dependent claims 17-19:

McNamara teaches the step of assigning a broad range of usage quotas to the defined classes [e.g., see "Interior Domain Area scaling allows aggregation of smaller sized interior network

elements to provide for efficient control and network resource usage." and associated discussion col. 49, lines 29-31]

Claims 20 - 32 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Gai et al.** (U.S. Patent 6,651,101).

As per independent claim 20:
Gai teaches a method for defining, tracking, and enforcing computer resource usage quota comprising the steps of:

- defining classes [e.g., see "policy classes" and associated discussion col. 14, lines 32, 34];

- defining computer resource usage policies [e.g., see col. 14, line 5, "policy bindings"];

- applying the usage policies to the classes [e.g., see "policy identifier element 554" and "A PID specifies a particular policy class" and associated discussion col. 14, line 32];

- generating reports on the usage of the classes [e.g., see print reports and associated discussion col. 10, lines 8-37];

- using the computer resource according to the defined class in accordance with the computer resource usage polices [e.g., see "policy enforcer 210" and associated discussion beginning, col. 18, line 37; see also policy enforcer discussion col. 4, beginning line 58].

As per dependent claims 21 &22:
Gai teaches assigning a cost to a defined class [e.g., see col. 15 lines 58-67, cont'd col. 16, lines 1-8].

As per dependent claim 23:

Gai teaches the quality of service attributes are selected from a group including resource performance, resource reliability, resource availability, resource latency, and resource bandwidth [e.g., see col. 8, lines 12-14].

As per dependent claims 24 -32:

Gai teaches assigning a class identification to each class [e.g., see "policy classes" and associated discussion col. 14, lines 32, 34; and resource usage quotas as claimed [e.g., see discussion col. 15, lines 58-67, cont'd col. 16, lines 1-8].

Allowable Subject Matter:

Claims 1-13 appear to be allowable over the prior art of record, subject to the results of a final search. The prior art of record does not teach nor fairly suggest the use of the combined system management service (SMS), the configuration database (CDB) for storing data resource usage quotas, and the distributed metadata service (MDS), where the three aforementioned components are operatively connected as claimed.

Prior Art not relied upon:

Please refer to the references listed on the attached PTO-892 which are not relied upon in the claim rejections detailed above.

How to Contact the Examiner:

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **St. John Courtenay III** whose voice telephone number is **(703) 308-5217.** A voice mail service is also available at this number.   Normal Flex work schedule: M – F   7:30 AM - 4:00 PM

- **All responses sent by U.S. Mail should be mailed to:**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Patent Customers advised to FAX communications to the USPTO

http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/faxnotice.pdf

Effective Oct. 15, 2003, ALL patent application correspondence transmitted by FAX must be directed to the new PTO central FAX number:

**NEW PTO CENTRAL FAX NUMBER:
703-872-9306**

- Any inquiry of a general nature or relating to the status of this application should be directed to the **TC 2100 Group receptionist: (703) 305-3900.**

**Please direct inquiries regarding fees, paper matching, and other issues not involving the Examiner to:
Technical Center 2100 CUSTOMER SERVICE: 703 306-5631**

The Manual of Patent Examining Procedure (MPEP) is available online at:
http://www.uspto.gov/web/offices/pac/mpep/index.html

ST. JOHN COURTENAY III
PRIMARY EXAMINER

Paper #5 First Office Action